



## **HISTORIC LANDMARKS COMMISSION**

### **ACTION MINUTES**

**February 7, 2018**

**Regular Session**

**6:30 p.m.**

**Wing Room 120**

**First Floor, City Hall Wing**

**200 East Santa Clara Street**

**San José, CA 95113**

### **Commission Members**

**Edward Saum, Chair**

**Joshua Marcotte, Vice Chair**

**Harriett Arnold**

**Melissa Daniels**

**Eric Hirst**

**Steve Polcyn**

**Anthony Raynsford**

**Rosalynn Hughey, Interim Director**

**Department of Planning, Building & Code Enforcement**

### Note

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Jennifer Provedor at 408-535-3505 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

## NOTICE TO THE PUBLIC

If you want to address the Commission, **fill out a speaker card (located at the technician's station), and give the completed card to the technician. Please include the agenda item number for reference.**

**The procedure for public hearings is as follows:**

- After the staff report, *applicants may make a five-minute presentation.*
- Anyone wishing to speak in favor of the proposal should prepare to come forward. After the proponents speak, anyone wishing to speak in opposition should prepare to come forward. *Each speaker will have two minutes.*
- Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The Commission will then close the public hearing.
- *The Historic Landmarks Commission will take action on the item.*

**The procedure for referrals is as follows:**

- Anyone wishing to speak on a referral should prepare to come forward. *Each speaker will have two minutes.*
- Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- *The Historic Landmarks Commission will comment on the referral item.*

**If a Commissioner would like a topic to be addressed under one of the Good and Welfare items, please contact Planning staff in advance of the Commission meeting.**

An agenda and a copy of all staff reports have been placed on the table for your convenience. All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3<sup>rd</sup> Floor Tower, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

# **AGENDA**

## **ORDER OF BUSINESS**

### **ROLL CALL**

PRESENT: Commissioners Saum, Marcotte, Hirst, Polcyn, and Raynsford  
ABSENT: Commissioners Arnold and Daniels

### **1. DEFERRALS**

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Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. If you want to change any of the deferral dates recommended or speak to the question of deferring these or any other items, you should say so at this time.

**No Items**

### **2. CONSENT CALENDAR**

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**The consent calendar items are considered to be routine and will be adopted by one motion.** There will be no separate discussion of these items unless a request is made by a member of the Historic Landmarks Commission, staff or the public to have an item removed from the consent calendar and considered separately. If anyone in the audience wishes to speak on one of these items, please make your request at this time.

**No Items**

### **3. PUBLIC HEARINGS**

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a. **[Discussion of other possible conservation areas for the Greater Gardner area.](#)**

**Recommendation:**

Recommend that staff: 1) work with the City-contracted historic consultant to update the Greater Gardner context Survey to include the proposed Gardner Area as shown on the attached map as a second Conservation Area (see Attachment, page 4); and 2) Return to the Historic Landmarks Commission (HLC) at the earliest feasible date so that the two potential Conservation Areas can be referred to the City Council concurrently.

**Staff presented the information requested by the Commission at the last meeting, and stated the Gardner neighborhood may qualify as a Conservation Area because:**

- 1) It has attributes embodied by its development patterns and setting; and**
- 2) It reflects significant unique geographical patterns associated with an important era of the City's early development, as it is an intact representation of the first area that was annexed to the City.**

The City's expert historic consultant, Franklin Maggi of Archives and Architecture, discussed the other areas in the Greater Gardner area that included the areas east of Delmas Avenue, west of Bird Avenue, and the Gregory Plaza neighborhood. He concluded that the Gardner area is the only area that may qualify for a second Conservation Area.

If the Commission supports the consultant's recommendation, staff would continue to work with the historic consultant to update the Greater Gardner Context Survey to include Gardner as the second Conservation Area, and return to the HLC at the earliest date possible so that the two potential Conservation Areas (North Willow Glen and Greater Gardner) can be referred to the City Council concurrently.

Chair Saum opened the meeting for public comments.

#### **Public Comments**

**Jeremy Taylor:** Stated his appreciation to the Commission for including the Greater Gardner area as a second Conservation Area.

**Patricia Palomares-Mason:** Stated that the community is thankful for the inclusion of the Gardner area, and said that the Gardner Area has a rich history that goes beyond the physical houses. These are homes for the people who live there, and community history should be included in the analysis when these designations are considered.

**Harvey Darnell:** Expressed his thanks to the Commission for including the Greater Gardner area as a second Conservation Area. He is concerned about the properties west of Bird Avenue being left out and is interested in how those properties could be included in the Greater Gardner Conservation Area.

**Pat Gormley:** Stated that neighborhoods and communities should be included when considering areas for conservation, like considering historic homes for preservation which may otherwise be lost by the changes brought about by the technology industry. The speaker commented that diversity is a good thing. Don't let Silicon Valley pave over our communities with high-rise buildings.

**Mary Lea Balsley:** Stated that the community feels like a "remnant." She asked if this designation will affect homeowners, and if there are resources available for the owners of these properties.

**Chair Saum:** Stated that detailed studies of the area that were done by the historic consultant will be available for property owners use. Residents will benefit from using the same contractors who are familiar with the age of the homes and the required processes. The Conservation Area designation will provide protection for the neighborhood.

**Staff:** Stated that the Single-Family House Permit will be required for exterior changes to homes in the Gardner area, which helps to protect the character of the Conservation Area. The City's "Your Old House Guidelines for Preserving San Jose Homes" is a resource posted on our website to help homeowners retain the historic character-defining features and the preserve the integrity of the houses.

**Chair Saum:** Asked for comments from Commissioners.

**Commission:** Asked staff what was not done for the Gardner area that was done for the North Willow Glen area.

**Staff:** Explained that the Department of Parks and Recreation (DPR) forms were not done for all the homes in the Gardner area. As a part of the Single Family House Permit review, Planning staff will require the property owner to submit a DPR form for proposed demolitions and major remodels. If the Commission supports the proposed Conservation areas, its recommendation will be forwarded to the City Council, and there will be

additional public hearings at the Historic Landmarks Commission, the Planning Commission and the City Council before a final decision is made.

**Commission:** Asked how changes will be communicated to the property owners. Staff explained that the City will send public hearing notices to property owners and residents.

**Commission:** Asked how the boundaries for the Conservation Area (shown in the PowerPoint presentation) were drawn.

**Franklin Maggi of Archives and Architecture, the City's Historic Consultant:** Explained that streets or other natural features are typically used as boundaries for Conservation Areas, however, there is nothing to prevent using another boundary. It is better to include both sides of a street and use the back property lines as appropriate.

**Staff:** Indicated that the City has limited funds for additional historic surveys. The recent 2017 update of the Greater Gardner Survey cost the City \$10,000. Areas not in the original Strong Neighborhood Initiative (SNI) area were not considered.

**Commission:** The Commission agreed that the demarcation should follow property lines. They also indicated that there may be some residents who don't want the additional burden associated with being in a Conservation Area.

**Harvey Darnell:** Stated that there is opposition voiced on Nextdoor for the Gregory Plaza area. The Fleming Subdivision was excluded from consideration.

**Staff:** Stated that property owners will be notified when public hearings and community meetings are scheduled.

**Resident:** What about houses that have already been renovated or are in the middle of renovations?

**Staff:** Explained that there would be no retroactive Single Family House Permit required for work that has already been done or is in progress. A Single-Family House Permit would be required for future proposed exterior changes only.

**Commission:** Asked about the status of the High Speed Rail right-of-way.

**Chair Saum:** Stated that several homes would have been impacted by the at-grade alternative that was under consideration for High Speed Rail. However, the City aggressively pushed back and the at-grade alternative is no longer the preferred alignment.

**Resident:** Stated that some owners of older houses in the neighborhood don't have resources to maintain these houses. One resident has lived there all her life and received some non-profit funding. There is a house that has tarps on the roof. There are houses from the 1890's that can still be saved.

**Staff:** Stated that the City does not have a program to help residents with upgrades. In the past, the Redevelopment Agency had some funds for this type of assistance. However, that resource is no longer available.

**Harvey Darnell:** Stated that there is a homeless encampment at the intersection of Highway 101 and Highway 280. There is damage to adjacent properties, and the neighborhood is not getting any help. The neighborhoods are degrading.

**Staff:** It would be best to inform the City's Code Enforcement Division to see what assistance they can provide.

**Resident:** We can work with our neighbors, but these houses are near a freeway with no barriers. The City has told us it was a Caltrans right-of-way.

**Staff:** Asked for the commenter's name and phone number so staff can research this further to see what assistance may be available.

**District 3 Council Office Representative:** Stated that the Council Office will make a report to Caltrans. She stated that multiple reports from the people who live in the neighborhood would get a better response. It will take time, but the Council Office staff are currently talking to State Assembly staff about a sound wall and property safety.

**Chair Saum:** Closed the public hearing and asked if there was a motion to accept staff's recommendation.

There was a motion and a second to endorse staff's proposal to have the historic update the Greater Gardner Survey to allow for a second Conservation Area for the Gardner area (as defined by the map provided by the consultant) and to return to the HLC when the update is completed. In addition, the Commission recommended that the properties west of Bird Avenue be considered as a potential addition to the Conservation Area if possible.

The motion passed 5-0-2 (Commissioners Arnold and Daniels absent).

#### **4. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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No Items

#### **5. OPEN FORUM**

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Members of the public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. The Commission cannot engage in any substantive discussion or take any formal action in response to the public comment. The Commission can only ask questions or respond to statements to the extent necessary to determine whether to: (1) refer the matter to staff for follow-up; (2) request staff to report back on a matter at a subsequent meeting; or (3) direct staff to place the item on a future agenda. Each member of the public may fill out a speaker's card and has up to two minutes to address the Commission.

**Brian Grayson:** "Save the Dancing Pig" fundraiser will be on February 25, 2018. It will be held at the Poor House Bistro. Twenty-five percent of every tab all day goes to the fund. Festivities are from 2:00 p.m. to 6:00 p.m. There will be prints and original artwork for sale to benefit the fundraiser.

#### **6. GOOD AND WELFARE**

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##### **a. Report from Secretary, Planning Commission, and City Council**

1. **Discussion of a Possible Historic Landmark Application for the Dancing Pig Sign for Stephen's Meats.** No action required.

**Staff:** To designate the Dancing Pig sign as a City Landmark would require a City Landmark Application, a historic report and a signature by the property owner (the Successor Agency). The City has limited resources and, therefore, lacks capacity to prepare

the historic report at this time. However, a community group or an individual could hire a qualified historic consultant to prepare such a report, and staff could help with the review process. The HLC may make the nomination, and the review process would require public hearings with the HLC and City Council. The process is approximately four months.

There is no staff to prepare an overall sign survey for the City. However, as a Certified Local Government, the City may apply for a grant from the State Historic Preservation Office (SHPO). Staff currently does not have the resources to write a grant proposal. Funding for the preparation of the grant could be paid for by a community group, and staff could prepare the grant submittal.

**Commission:** Asked if the Preservation Action Council of San Jose (PAC SJ) is willing to pay for the grant proposal.

**Brian Grayson, representing PAC SJ:** Stated that there are numerous signs in the City that have no protection. He has contacted the Successor Agency, who owns the Dancing Pig Sign, over the years and has received no response. PAC SJ commissioned an assessment of the sign in November, 2017, and found that the sign restoration would be very expensive. They also found that the sign has two bullet holes. These vintage signs are becoming victims of development proposals. PAC SJ's idea is to have a Neon Park and not keep the signs in storage. It will cost about \$32,000 to restore the Dancing Pig sign. Unless it is a priority for the City Council nothing will be done. The HLC support would be beneficial.

**Commission:** Asked the amount of the grant.

**Franklin Maggi, the City's Historic Consultant:** Explained that he had prepared a grant-funded survey for the City of Berkeley with a \$25,000 matching grant. The SHPO grant is typically posted on the SHPO website. However, he hasn't found it on the website this year, so it may not be funded through the National Park Service (NPS).

**Chair Saum:** Asked what will be the fate of the sign.

**Brian Grayson, representing PAC SJ:** Explained that it depends on how much money is raised. There are ownership concerns, which PAC SJ is trying to resolve. He is concerned that Google may purchase the property.

**Commission:** Stated that he would like to have the survey and see the sign saved.

**Commission:** Asked if anything changes if the sign is in a historic district.

**Chair Saum:** Stated that the City has a vested interest in Diridon Station. There is no preservation aspect to the Diridon Station Advisory Group. The City Council is divided. But there are City Landmarks in the Diridon Station Area.

**Staff:** In response to the previous question, staff stated that, if the sign is in a historic district, there would be an Historic Preservation Permit required, which would be reviewed by this Commission. Staff also stated that the City Council recently approved the Historic Survey Strategy that will allow a survey of the Downtown and surrounding areas (including Diridon). The City has funded the Survey Strategy and staff to work on implementing it.

**Chair Saum:** There are conflicting timelines for Diridon Station, the BART extension, Caltrain Electrification, and High Speed Rail; whichever comes first will set the stage for the others.

Chair Saum asked for a motion for staff to prepare a City Landmark Application for the HLC to nominate the Stephen's Meats Dancing Pig Sign. There was a motion and a second that passed 5-0-2 (Commissioners Arnold and Daniels absent).

**Staff:** Clarified that the Successor Agency is the owner of the property and the sign. The property owner will need to sign the application. A historic report will also need to be prepared.

**Chair Saum:** Asked for a motion for the Chair to write a letter to the Successor Agency asking them to support the application for the Dancing Pig Sign to be designated as a City Landmark. The motion passed 5-0-2 (Commissioners Arnold and Daniels absent).

**Commission:** Asked staff if the historic survey would apply only to the built environment or would it also apply to signs as well.

**Staff:** Responded that a sign survey was not included in the Citywide Survey Strategy. When properties are recommended to be designated as City Landmarks, the landmark status would apply to the whole site including existing signs.

**Commission:** Asked how the Commission investigates the cost for getting a grant written and what resources are available to keep this going. The Commission also asked whether this should be an on-going item on the HLC agenda.

**Staff:** Responded that the Commission can suggest that staff continue to research grants and matching funds and keep the Commission apprised.

**Commissioner Hirst:** Asked how we communicate these items to the City Council.

**Chair Saum:** Individual commissioners can speak directly to members of the City Council. After the Commission has more specific information about the grant, the HLC can recommend that such a grant program be pursued for such a sign survey.

2. Past Agenda Items: No Items.
3. Future Agenda Items: Possibly Hotel Clariana Addition (File No. HP17-007); and Sumitomo Bank (File No. H17-050).
4. Summary of communications received by the Historic Landmarks Commission:

Letter from Preservation Action Council of San José regarding the Scheller House on the San José State University campus.

**Brian Grayson, representing PAC SJ:** Stated that San José State previously told PAC SJ that they would be relocating the house. However, now we believe demolition is being considered. PAC SJ can't confirm that the house would be relocated. PAC SJ has sent letters to the San José State President and others, but only the State Historic Preservation Officer (SHPO) has responded. Mr. Grayson commented that SHPO can do nothing, but is interested in how this pans out. Mr. Grayson added that relocation of the house is an option, but moving it may affect its historic integrity.

**Commission Raynsford:** Stated that the University had a Historic Committee on campus which was disbanded. He said that he would write a letter and ask that the Committee be reinstated.

**Staff:** Stated that San José will need to prepare an environmental clearance under CEQA for demolition or relocation. The Chair can write a letter on behalf of the Commission and staff can assist.

**Chair Saum:** Asked for a motion to recommend that the Chair prepare a letter on behalf of the Commission. The motion passed 5-0-2 (Commissioners Arnold and Daniels absent).

Chair Saum reminded all attendees that they can write their own letters as individual citizens; it doesn't hurt, and makes a difference.



b. **Report from Committees**

Design Review Subcommittee: Meets the 3<sup>rd</sup> Wednesday of the month as necessary.

**Commissioner Raynsford reported on the last HLC Design Review Subcommittee meeting. The first item was tabled because the architect is reconsidering the design.**

**The second item was to legalize an unpermitted conversion of a residence in the Hensley District to a five-plex. Legalizing the use could require widening the existing eight-foot wide driveway which would in turn require that a bay window would be removed. The house is historic and window is a character-defining feature of the house. The Subcommittee recommended that the City find a process to approve the use without taking out the window.**

**Staff reported that the City is still reviewing this and may support a duplex, which would not require widening the driveway, and could, therefore, retain the window and legalize the use.**

**The third item was unpermitted hardscape at the San Jose Athletic Club building [Scottish Rite Temple]. The subcommittee recommended landscaping in front of the building with subtle perimeter fencing, formal hedges, and symmetry.**

c. **Approval of Action Minutes**

**Recommendation:** Approval of Action Minutes for the Historic Landmarks Commission Meeting of [December 6, 2017](#).

**Correction:** On page 8, the speaker on the last comment regarding the Emporium sign (under Section 5, Open Forum), should be changed from Dan Erceg to Brian Grayson.

**It was moved and seconded to accept the minutes as amended with the correction. The motion passed 5-0-2.**

d. **Status of Circulating Environmental Documents:**

**No circulating environmental documents with historic issues.**

**Staff explained that a recently approved Single Family House Permit, for the demolition of the residence and construction of a new residence (at 1215 Fairview Avenue), included a condition that the owner place an advertisement in a newspaper of general circulation to offer the residence for relocation.**

**Staff shared a copy of the advertisement that was recently placed in the Mercury News, and indicated that there is a developer who has offered to relocate the residence to another site so this approach to save the Structure of Merit appears to be successful. The relocation details are still under preparation.**

**Brian Grayson with PAC SJ asked whether there was a condition requiring the owner to offer the cost of demolition to the prospective mover. Staff said that they were not able to get that requirement included in this permit. Generally, staff is supportive of this type of requirement for certain developments.**

## **ADJOURNMENT**

# **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

## **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

## **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
  - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
  - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
  - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
  - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
  - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
  - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.